Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1996

Robert C. Wilson, *Petitioner*

v

Micheal Began, Ocean Orthopedic, *Respondant(s)*

On Petition For Writ Of Certiorari
To The 2nd Appellate District Division 6, State of California

PETITION FOR WRIT OF CERTIORARI

Robert C. Wilson
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Petitioner in Propria Persona

Question Presented

What should determine the "nature" of the case, a hearing at a "Meaningful" time and in a "meaningful" manner, and "arbitrary" state appellate court review as applied to the due process clause of the 14th amendment to the constitution.

List of All Parties to the Proceeding

1. Robert C. Wilson, *Petitioner*
2. Micheal D. Began, *Respondant*
3. Ocean Orthopedic and Sports Medical Group, *Respondant*

Basis for Jurisdiction

Trial Court Judgment for Defendants on August 15, 1994

Appellate review affirming judgment January 8, 1996

Petition for rehearing denied on January 30, 1996

Petition for review denied on April 10, 1996

The Constitutional Provision

The 14th Amendment to the U.S. Constitution, Section 1.
"No state shall make or enforce any law which shall abridge the priveledges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law, or deny to any person within its jurisdiction equal protection of the law."

Statement of the Case

This case involves Robert C. Wilson, Petitioner, and the treatment he received from Respondants, Micheal D. Began, M.D., Ocean Orthopedic Surgery and Sports Medical Group, concerning Wilson's carpal tunnel syndrome injury, which Wilson will demonstrate by evidence was fraudulant. In addition to the fraudulant actions of Respondants, Wilson will show how the California Courts deprived his due process rights regarding his claim against Respondents.

Wilson, now a former employee of the Navy, filed a Worker's Comp Claim for carpal tunnel syndrome (CTS) in September 1991. Wilson saw Began for an orthopedic evaluation. Began told Wilson that he "didn't think he (Wilson) had CTS" and could have gotten CTS "from lifting something very heavy". At the conclusion of the office visit, Began told Wilson that he would do a short note to Dr. Foraste, Wilson's referring physician. Shortly thereafter, Wilson requested to see his file, but Began's office refused his request. On February 19, 1992, Wilson was informed by Lisa, Dr. Foraste's office manager of Began's report, which Wilson saw was addressed to Mary Wedel, U.S. Department of Labor. When Wilson obtained a copy of his file from the U.S. Labor in June 1992, Began's report wasn't there. Shortly after being required by his employer to attend counseling in late August 1992, Wilson went to Began's office and demanded his file. After payment, Wilson obtained a copy of letter to Began from Mary Wedel. U.S. Department of Navy. Upon advice of counsel, Wilson filed complaint for negligence and breach of professional duty.against Began and his office in September 1993

Early in the pretrial stage, Wilson filed motions to compel and continue discovery, particularly a medical billing document, which were denied by the by the Trial Court. App. 13-22. Wilson did not have the information on the medical bill at the time of the depositions and not sufficiently in time for the Summary Judgment Hearing because of Respondant's' Attorney's (App. 41-43) long delay in providing the document after being ordered by the Trial Court.

(Referring to deposition App. 35-38) Began committed Fraud by demonstrating that he had constructive knowledge of "what it takes to get a Work Comp claim denied because some of his patient's claims were "denied" App. 37. page 21, lines 19-25.

(Referring to deposition of Began App. 36, page 12 lines 16-25) even though he asserted he did. According to law, see Gale v Woods (1952) 112 Cal App 2d 650 and Wilson's declaration App. 24, para 9.

According to Mary Wedel declaration App. 50 para 5, she informed Began's office that Wilson's claim was a "possible work related injury. In the medical bill Wilson obtained after Began's deposition, Began demonstrated that he knew this because the medical bill signed by Began (App. 42, box 10) shows that Began made his own determination that Wilson's injury was not work related.

Referring to Amparo Leon Deposition, App. 40, She continued to assert they never billed anyone because Wilson "didn't want (us) to bill anyone. See Medical Bill Boxes 12, 13, which show that they stated they had a request by patient for payment "on File".

Referring to Amparo Leon deposition,App. 40, page 13, line 7 "we don't do our billing right away". Compare with Appellate review determination of fact that "On January 6, 1992, he learned that a Navy worker's claims administrator knew he had visited Began. App. 5, para 3" and medical Bill date of Jan 7, 1992, App. 43, Box

25. Respectfully request U. S. Supreme Ccourt note that here Appellate Court contradicted the facts, see App. 58, para 9, which is what Wilson knew.

At the Summary Judgment Hearing, the Trial Court determined there was a problem namely that Began was not the Work comp doctor because Wilson was "seen upon the referral of his primary care physician" App.27-32. The Trial Court ignored Wilson's declararion, App. 24, para 9. Had Trial Court correctly applied the law, Wilson would have been given leave to amend complaint. Hansra v Superior Court (1992) 7 Ca 4th 630, 639. Trial Court also determined the pleadings were defective. App 26, ISSUE 3 and App.32, lines 2-5.

At the Appellate level, the Court cited their own case for using the "independant review approach, which "identifies the issues framed by the pleadings". In soite of the fact that the record showed defective pleadings App. 26. ISSUE 3, the defense Attorney admitted App. 29, lines 1-8, and the Trial Court determined this App. App 26, Issue 3. Wilson's Requests to Take Additional Evidence for "good Cause (Trial Court denied discovery and continuane), Appellate Court denied requests.

At the Supreme Court level, Appellant petitioned for review on basis there was no uniform laws regarding Summarry Judgment, see Saldana v Globe Weiss 233 Cal App 3d at 1511, 2a para 3. The California Supreme Court Denied. App.12.

What should determine the nature of the case in light of due process?

The Nature of the case Mullane v Central Hanover Tr. Co. Supra at 313, the Supreme Court addressed. This case presents the opportunity for the U.S. Supreme Court to decide further details, such as, is it the complaint, or the evidence supporting the facts?

Whaat should be the standard for an opprotunity granted at a

meaningful time in a "meaningful" manner, as set forth in Armstrong v Manzo, 390 US 545, 552 (1965)

Is California's policy of no dictum for summary judgment review arbitrary such that it denies to some person's the rights or priveledges available to others? Boddie v Connecticut 401 US 371(1971)

Finally, Snyder v Massachusetts 291 US 97 " a State is free to regulate procedure in accordance with it's own policy of fairness..." Does California's Summary Judgment review "offend some principle of justice.... as to be ranked as fundamental?

Respectfully submitted,

Robert Wilson
Petitioner in Propria Persona